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INTELLECTUAL PROPERTY ADMINISTRATION		
FORT COLLINS, CO 80527-2400		

EXAMINER	
YUEN, KAN	

ART UNIT	PAPER NUMBER
2616	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/633,440

Applicant(s)

ROEDER, MICHAEL T.

Examiner

Kan Yuen

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9-16 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9-16 and 18-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments, see remark, filed 10/31/2007, with respect to the rejection(s) of claim(s) 1-21 under 102 and 103 rejections have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sreejith et al. (Pat No.: 7239608).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 9, 15, 16, 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Sreejith et al. (Pat No.: 7239608).

For claims 1, and 15 Sreejith et al. disclosed the method of receiving a packet that is placed into a specific class of service (COS) group (Sreejith et al. fig. 3, column 6, lines 1-18). Fig. 3 shows a routing node 216, which comprises a Packet classification 305. The unit 305 receives and examines IP address of the received packets and classifies which data packets must be sent to multiple switch fabrics using uplink paths O1 or O2. The uplinks O1 and O2 being two different service classes; determining a

fabric-adjusted meter modifier depending on technology of a limiting uplink being used; and adding the fabric-adjusted meter modifier to a meter corresponding to the specific COS group (column 6, lines 17-37). The uplink paths O1 and O2 selected by packet scheduler 310 is determined by the routing table information stored in load balancing table 320. According to the reference, the data packet load statistics for the O1 uplink path and the O2 uplink path are measured in packet scheduler 310 and stored in uplink load statistics table 325. The load balancing controller 315 uses the measurement in load statistics table 325 to modify the routing table information stored in load balancing table 320. The packet scheduler 310 routes the data packets based on the routing information provided in the load balancing table 320. The routing formation can be the meter, and the data packet load statistics for the uplinks is the technology. The load balancing controller 315 is the fabric-adjusted meter modifier that controls or modifies the routing information stored in the load balancing table 320.

Regarding claim 9 Sreejith et al. disclosed the method of a port for receiving a packet that is placed into a specific COS group (Sreejith et al. fig. 3, column 6, lines 1-18). Fig. 3 shows a routing node 216, which comprises a Packet classification 305. The unit 305 receives and examines IP address of the received packets and classifies which data packets must be sent to multiple switch fabrics using uplink paths O1 or O2. The uplinks O1 and O2 being two different service classes; calculation circuitry configured to determine a fabric-adjusted meter modifier depending on a technology of an uplink being used and update circuitry configured to add the fabric-adjusted meter modifier to a meter corresponding to the specific COS group (column 6, lines 17-37). The uplink

paths O1 and O2 selected by packet scheduler 310 is determined by the routing table information stored in load balancing table 320. According to the reference, the data packet load statistics for the O1 uplink path and the O2 uplink path are measured in packet scheduler 310 and stored in uplink load statistics table 325. The load balancing controller 315 uses the measurement in load statistics table 325 to modify the routing table information stored in load balancing table 320. The packet scheduler 310 routes the data packets based on the routing information provided in the load balancing table 320. The routing formation can be the meter, and the data packet load statistics for the uplinks is the technology. The load balancing controller 315 is the fabric-adjusted meter modifier that controls or modifies the routing information stored in the load balancing table 320.

Regarding claim 16 Sreejith et al. disclosed the method of defining a user-configurable function by way of a user interface (Sreehith et al. column 6, lines 17-37). According to the reference, the data packet load statistics for the O1 uplink path and the O2 uplink path are measured in packet scheduler 310 and stored in uplink load statistics table 325. The packet scheduler 310 routes the data packets based on routing information stored in table 320. The routing information can be the modifier functions; and assigning the user-configurable function to be a meter modifier function associated with a class of service group in the system, wherein the meter function is used to adjust for fabric uplink technology (Sreejith et al. fig. 3, column 6, lines 1-37). Fig. 3 shows a routing node 216, which comprises a Packet classification 305. The unit 305 receives and examines IP address of the received packets and classifies which data packets

must be sent to multiple switch fabrics using uplink paths O1 or O2; The load balancing controller 315 uses the measurement in load statistics table 325 to modify the routing table information stored in load balancing table 320. The packet scheduler 310 routes the data packets based on the routing information provided in the load balancing table 320. The load statistics can be interpreted as the technology used to limiting the uplink.

Regarding claim 21 Sreejith et al. disclosed the method of defining multiple user-configurable meter modifier functions by way of a user interface (Sreehith et al. column 6, lines 17-37). According to the reference, the data packet load statistics for the O1 uplink path and the O2 uplink path are measured in packet scheduler 310 and stored in uplink load statistics table 325. The packet scheduler 310 routs the data packets based on routing information stored in table 320. The routing information can be the modifier functions; and assigning each service class of a set of service classes to one of the user-configurable meter modifier functions, wherein the meter modifier functions are dependent upon which type of fabric-uplink technology is used (Sreejith et al. fig. 3, column 6, lines 1-37). Fig. 3 shows a routing node 216, which comprises a Packet classification 305. The unit 305 receives and examines IP address of the received packets and classifies which data packets must be sent to multiple switch fabrics using uplink paths O1 or O2; The load balancing controller 315 uses the measurement in load statistics table 325 to modify the routing table information stored in load balancing table 320. The packet scheduler 310 routes the data packets based on the routing information provided in the load balancing table 320. The load statistics can be interpreted as the technology used to limiting the uplink.

Claim Rejections - 35 USC § 103

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-6, 10-13, 18,19,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sreejith et al. (Pat No.: 7239608), In view of Mittal et al. (Pat No.: 7035212).

7. For claim 3, Sreehith et al. did not disclose the method of determining if the meter exceeds a black-type limit for the specific COS group; and if the black-type limit is exceeded, then dropping the packet. Mittal et al. disclosed the method of determining if the meter exceeds a black-type limit for the specific COS group; and if the black-type limit is exceeded, then dropping the packet (Mittal et al. see drawing 3, Egress Traffic

Manager 28, and Egress Memory Hub 26, and see column 6, lines 16-25). In the drawing, if the number of packets or length of a particular egress flow ID gets too large, the packets will be dropped. The black-type limit can be referred to, as number of packets or length or a packet gets too large, and will be subjected to packet drop. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the method as taught by Mittal et al. in the network of Sreejith et al. The motivation for using the method as taught by Mittal et al. in the network of Sreejith et al. being that it utilizes channels more efficiently.

Regarding claim 4 Mittal et al. disclosed the method of determining if the meter exceeds a red-type limit for the specific COS group; and if the red-type limit is exceeded, then lowering a priority level of the packet (Mittal et al. see fig. 6, Ingress Traffic Manager 16, and Ingress Memory Hub 18, and see column 9, lines 1-10). In the reference, the red-type limit can be referred to as a COS level being reduce based on the number of packets and the sizes of the packets. The example in column 9, lines 1-10 teaches that the COS level being reduced from 5 to 4, based on the number of received packets, and the length of the packets.

Regarding claim 5 Mittal et al. disclosed the method of determining if the COS meter exceeds a limit for the specific COS group and if the limit is exceeded then perform an action, specified for the limit (see drawing 3, Egress Traffic Manager 28, and Egress Memory Hub 26, and see column 6, lines 16-25). In the drawing, if the number of packets or length of a particular egress flow ID gets too large, which is the limit, the action is that the packets will be dropped.

Regarding claim 6 Mittal et al. disclosed the method of determining the fabric-adjusted meter modifier comprises retrieving a modifier value associated with the payload size from a technology-specific look-up table (see fig. 6, Ingress Traffic Manager 16, and Ingress Memory Hub 18). In the drawing, Ingress Memory Hub 18 stores the received packet information to Ingress Memory 20 including packet length and COS values. The Ingress Traffic Manager 16 obtains that information from the Ingress Memory 20. The payload size can be referred as packet length.

Regarding claim 10, Mittal et al. disclosed the method of the fabric-adjusted meter modifier is also dependent on a payload size of the packet (see fig. 6, Ingress Traffic Manager 16, and Ingress Memory Hub 18). In the drawing, the Traffic Manager 16 updates the COS value to Ingress Memory Hub 18 based on the Total Packets and Total Length of the packet. The payload size can be referred as packet length

Regarding claim 11, Mittal et al. disclosed the method of comparison circuitry configured to determine if the meter exceeds a black-type limit for the specific COS group; and non-forwarding circuitry for dropping the packet if the black-type limit is exceeded (see drawing 3, Egress Traffic Manager 28, and Egress Memory Hub 26, and see column 6, lines 16-25). In the drawing, if the number of packets or length of a particular egress flow ID gets too large, the packets will be dropped. The black-type limit can be referred to, as number of packets or length or a packet gets too large, and will be subjected to packet drop.

Regarding claim 12, Mittal et al. disclosed the method of comparison circuitry configured to determine if the meter exceeds a red-type limit for the specific COS group;

and prioritization circuitry for lowering a priority level of the packet if the red-type limit is exceeded (see fig. 6, Ingress Traffic Manager 16, and Ingress Memory Hub 18, and see column 9, lines 1-10). In the reference, the red-type limit can be referred to as a COS level being reduce based on the number of packets and the sizes of the packets. The example in column 9, lines 1-10 teaches that the COS level being reduced from 5 to 4, based on the number of received packets, and the length of the packets.

Regarding claim 13, Mittal et al. disclosed the method of a technology-specific look-up table (Mittal et al. see fig. 2, Ingress Queue 42, and see column 4, lines 18-30).

Regarding claim 18, Mittal et al. disclosed the method of the user-configurable function depends on a current value of the meter (see column 6, lines 26-58). The term current value can be referred to as packet information such as forwarding value, or the flow id value that is currently received. In the reference, the forwarding value, and the flow id value are used as basis of the routing.

Regarding claim 19, Mittal et al. disclosed the method of the user-configurable function depends on a last destination of a packet forwarded by the system (see column 7, lines 26-50). In the reference, the packets A, and C are going to the same destination, and therefore we can say that the configuration function of packet C is depends on the first transmission of packet A.

Regarding claim 25, Mittal et al. disclosed the method of the fabric-adjusted meter modifier is also dependent on a payload size of the packet (Mittal see fig. 6, Ingress Traffic Manager 16, and Ingress Memory Hub 18). In the drawing, Ingress Memory Hub 18 stores the received packet information to Ingress Memory 20 including

packet length and COS values. The Ingress Traffic Manager 16 obtains that information from the Ingress Memory 20. The payload size can be referred as packet length.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sreejith et al. (Pat No.: 7239608), In view of Norrell et al. (Pat No.: 6874096).

For claim 14, Sreehith et al. did not disclose the method of a plurality of comparators and an adder to sum outputs of the comparators. Norrell from the same or similar fields of endeavor teaches the method of a plurality of comparators and an adder to sum outputs of the comparators (Norrell et al. see fig. 2, 202, 204, and 208, and see column 4, lines 29-35). In the reference, the low pass filters 202, and 204 can be interpreted as the comparators, and the summation 208 summed up the outputs of the low pass filters. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the method as taught by Norrell et al. in the network of Sreejith et al. The motivation for using the method as taught by Norrell et al. in the network of Sreejith et al. being that it provides system accuracy.

9. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sreejith et al. (Pat No.: 7239608), In view of Valvo et al. (Pat No.: 7292534).

For claim 22, Sreejith et al. did not disclose the method of the fabric-adjusted meter modifier is different for hardware-based and software-based routing. Valvo et al. from the same or similar fields of endeavor teaches the method of the fabric-adjusted

meter modifier is different for hardware-based and software-based routing (Valvo et al. column 1, lines 60-67). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the method as taught by Valvo et al. in the network of Sreejith et al. The motivation for using the method as taught by Valvo et al. in the network of Sreejith et al. being that it provides system accuracy.

Regarding claim 23, Valvo et al. disclosed the method of the fabric-adjusted meter modifier is different for tagged and untagged hardware-based routing (Valvo et al. column 1, lines 60-67).

Regarding claim 24, Valvo et al. disclosed the method of the fabric-adjusted meter modifier is different for hardware-based routing to an Ethernet link and hardware-based routing to a Synchronous Optical NETWORK (SONET) link (Valvo et al. column 1, lines 60-67).

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sreejith et al. (Pat No.: 7239608), In view of Mittal et al. (Pat No.: 7035212), as applied to claim 25 above, and further in view of Norrell et al. (Pat No.: 6874096).

For claim 26, Sreejith et al. and Mittal et al. both did not disclose the method of determining the fabric-adjusted meter modifier comprises summing outputs from a plurality of comparators with the payload size if specified by a user-configurable flag. Norrell from the same or similar fields of endeavor teaches the method of determining the fabric-adjusted meter modifier comprises summing outputs from a plurality of comparators with the payload size if specified by a user-configurable flag (Norrell et al.

see fig. 2, 202, 204, and 208, and see column 4, lines 29-35). In the reference, the low pass filters 202, and 204 can be interpreted as the comparators, and the summation 208 summed up the outputs of the low pass filters. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the method as taught by Norrell et al. in the network of Sreejith et al. and Mittal et al. The motivation for using the method as taught by Norrell et al. in the network of Sreejith et al. and Mittal et al. being that it provides system accuracy.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kan Yuen whose telephone number is 571-270-1413. The examiner can normally be reached on Monday-Friday 10:00a.m-3:00p.m EST.

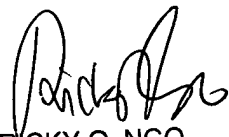
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky O. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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KY


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